

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ID#2609
ENERGY DIVISION **RESOLUTION E-3844**
September 18, 2003

R E S O L U T I O N

Resolution E-3844. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) each submitted an Advice Letter to establish a pilot program to provide net energy metering for eligible biogas digester customer-generators in compliance with Assembly Bill (AB) 2228.

The advice letters were approved with modifications by Resolution E-3827 on June 19, 2003. The utilities were directed to file revised tariffs within 10 days. PG&E and SDG&E submitted revised advice letters on June 30, 2003 which were protested by Sustainable Conservation. SCE filed substitute sheets filed May 5, 2003, to reflect the concerns of the protestants. Approved with modifications.

By Advice Letters Filed on June 30, 2003.
PG&E – 2350-E-A
SDG&E - 1475-E-A.

SUMMARY

This resolution clarifies the methodology to be used by PG&E, SCE, and SDG&E to calculate the credit of a biogas customer eligible to participate in the pilot net metering program as required by AB 2228 and implemented in Resolution E-3827.

With this resolution, we ensure consistent application among the utilities. We reject sections of the tariffs proposed by PG&E and SDG&E which would bill aggregated accounts not serving a biogas digester generating facility for generation charges and energy surcharges on a monthly basis. We sustain the protestant's interpretation that AB 2228 allows dairies with biogas digester generating facilities to aggregate consumption of utility-

provided electricity on all eligible dairy accounts, net aggregated energy consumption against customer generation on an annual basis, and pay energy surcharges on the net consumption of all eligible aggregated dairy accounts.

BACKGROUND

AB 2228, signed by Governor Davis on September 24, 2002, directs the utilities to establish a net energy metering pilot program for eligible biogas customer-generators. PG&E, SCE, and SDG&E each filed their initial advice letters on March 3, 2003 proposing new tariffs to implement the program.

Protestants to these advice letters include Roy Sharp, Inc., Sustainable Conservation, Western Dairymen, RCM Digesters, inc., the Inland Empire Utility Agency, and the Milk Producers Council. The primary concern among the protestants was the energy credit methodologies proposed by the respective utilities.

The Commission adopted Energy Division Resolution E-3827 on June 19, 2003. In that resolution, we accepted much of the substance of these protests, and directed the utilities to file revised advice letters by June 29 which reflected the following :

- A dairy may combine accounts to calculate net consumption/production.
- Generation surcharges are calculated on net consumption.
- Non generation charges are calculated on total kWhs delivered by the utility.
- Customers receive credit at the utility retail generation price per kWh in effect during the time of generation. For example, customers on Time-of-Use (TOU) tariffs are credited with peak price for power exported to the grid during peak hours.

PG&E and SDG&E filed revised tariffs on June 30, 2003. SCE did not file revised tariffs, because in a May 5, 2003 filing, SCE revised its proposed tariff to reflect the concerns of the protestants.

PG&E and SDG&E propose to bill the eligible aggregated customer accounts monthly on a Time-of-Use (TOU) tariff for all charges, including generation and energy surcharges. The utility will track consumption and exports on the meter serving the biogas digester. At the end of the applicable 12-month period, the utility will combine the customer's aggregated consumption on all accounts,

including the digester account. The total consumption would be compared with the generation exported to the grid. If the customer produces more electricity than it consumes on the biogas digester account, the utility would then apply the resulting credit toward the generation component for energy consumption on the aggregated accounts. However, PG&E's and SDG&E's revised tariffs propose to assess energy surcharges on the aggregated accounts based on gross consumption, even if the customer is a net producer.

NOTICE

Notice of Advice Letters 2350-E-A, and 1475-E-A were made by publication in the Commission's Daily Calendar. PG&E and SDG&E state that copies of the respective Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

Sustainable Conservation's (Sustainable) protest was timely filed.

Sustainable contends that PG&E and SDG&E did not modify their advice letters to conform with E-3827. Sustainable notes that SCE's last filing was on May 5, 2003, prior to Commission's adoption of E-3827.

Sustainable asserts that the term "customer-generator" used in AB 2228 refers to the aggregated dairy, and "generating facility" refers to the biogas digester. Under these definitions, the utility nets the dairy's energy production to total consumption on all accounts associated with dairy operation, and bills the customer annually for generation charges, including energy surcharges, on the net consumption on all accounts associated with the total dairy operation. Non-generation charges are billed monthly. Sustainable points out that the methodology proposed by PG&E and SDG&E would cause a dairy to pay generation surcharges on its gross imports, rather than on the dairy's net consumption.

PG&E responded to Sustainable's protest on July 24.

PG&E's response states that there is nothing in AB 2228 describing a process whereby multiple rates from multiple aggregated accounts should be incorporated into the credit calculation. PG&E contends that the net metering

tariff established in AB 2228 refers to the single account served by the biogas digester generating facility, and not the aggregated accounts.

DISCUSSION

Energy Division has reviewed AL 2350-E-A, AL 1475-E-A, and the protestants' letter. Discussion of the relevant facts that lead to the approval and modifications of these advice letters is set forth below.

We agree with Sustainable that PG&E and SDG&E apply a narrow interpretation of the term "customer-generator". We clarify that the term "customer-generator" refers to the entire eligible dairy operation, not just the account serving the biogas digester generating facility. We concur that the utility must track energy production and utility-provided energy each month on all eligible aggregated dairy accounts, whether or not an account serves a biogas digester. The customer-generator will be billed annually for net dairy generation charges and energy surcharges. Energy surcharges will be calculated on the net consumption of utility-provided generation for the dairy operation, not on total consumption of the aggregated accounts and net consumption of the account serving the biogas digester, as proposed by PG&E and SDG&E. Non-generation charges on energy delivered by the utility will be billed monthly.

Although Sustainable included SCE in the subject heading of the July 16 protest letter, the body of the letter indicates that Sustainable agrees with SCE's proposed credit methodology. We agree that the billing treatment proposed in AL 1692-E conforms with our expectations, and will therefore retain the effective date of Resolution E-3827, June 19, for SCE AL 1692-E.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(3) provides that this 30-day period may be reduced/waived by Commission adopted rule.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. Assembly Bill 2228 was signed into law by Governor Davis on September 24, 2002.
2. PG&E, SCE, and SDG&E filed Advice Letters on March 3, 2003 requesting Commission approval to implement a pilot net metering program for biogas digester generating facilities.
3. The Energy Division suspended the ALs through August 7, 2003.
4. Resolution E-3827 approved the Advice Letters with modifications on June 19, 2003.
5. PG&E and SDG&E filed revised tariffs on June 30, 2003.
6. SCE did not file revised tariffs in response to Resolution E-3827.
7. A protest to the revised filings was filed by Sustainable Conservation on July 16, 2003.
8. The term “customer-generator” refers to the entire eligible dairy operation.
9. The utility must track energy production and utility-provided energy each month on all eligible aggregated dairy accounts, whether or not an account serves a biogas digester.
10. The customer-generator will be billed annually for net dairy generation charges and energy surcharges.
11. Energy surcharges will be calculated on the net consumption of utility-provided generation for the dairy operation.
12. Non-generation charges on energy delivered by the utility to all dairy accounts will be billed monthly.

THEREFORE IT IS ORDERED THAT:

1. Advice letters filed by PG&E and SDG&E requesting Commission authorization to implement a pilot net metering program for biogas digester generating facilities are approved, pending modifications to the bill credit calculation methodology.
2. The effective date for SCE AL 1692-E remains June 19, 2003.
3. The utilities will file revised tariffs within 10 days of the effective date of this resolution to reflect the modifications discussed herein.
4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 18, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director

August 19, 2003

RESOLUTION E-3844

Commission Meeting September 18, 2003

TO: PARTIES TO PACIFIC GAS & ELECTRIC COMPANY
ADVICE LETTER NO. 2350-E

SOUTHERN CALIFORNIA EDISON COMPANY
ADVICE LETTER NO. 1692-E

SAN DIEGO GAS & ELECTRIC COMPANY
ADVICE LETTER NO. 1475-E

Enclosed is draft Resolution E-3844 of the Energy Division. It will be on the agenda for the Commission's September 18, 2003 meeting. The Commission may vote on this resolution, or it may postpone a vote until later.

When the Commission votes on a draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare a different resolution. Only when the Commission acts does the resolution become binding on the parties.

Parties to the proceeding may submit comments on the draft resolution.

An original of the comments, with a certificate of service, should be submitted to:

Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

A copy of the comments should be submitted in electronic format to:

Valerie Beck
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
e-mail: vjb@cpuc.ca.gov

Parties may submit comments on the draft resolution by September 3, 2003. The date of submission is the date the comments are *received* by the Energy Division. Replies to comments may be submitted by September 8, 2003.

Parties must serve a copy of their comments on the Commissioners, the Director of the Energy Division, and on all persons on the service list attached to the draft resolution, on the same date that the comments are submitted to the Energy Division. Parties must serve replies to comments on the Commissioners, the Director of the Energy Division, all persons on the service list attached to the draft resolution and any other parties who filed comments, on the same date that the comments are submitted to the Energy Division.

Comments and replies to comments shall be limited to 5 pages in length plus a subject index listing the recommended changes to the draft resolution, a table of authorities and an appendix setting forth proposed findings and ordering paragraphs.

Comments and replies shall focus on factual, legal, or technical errors in the proposed resolution. Comments and replies that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Late-submitted comments and replies will ordinarily be rejected. However, in extraordinary circumstances, a request for leave to submit comments or replies late may be filed together with the proposed comments. An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Don Lafrenz, Program and Project Supervisor
Energy Division

Enclosures: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-3844 on all parties in these filings or their attorneys as shown on the attached list.

Dated August 19, 2003 at San Francisco, California.

Jerry Royer

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.